

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:) Examiner: Spector, Lorraine
Avi ASHKENAZI, et al.) Art Unit: 1647
Application Serial No. 09/904,877) Confirmation No. 4450
Filed: July 12, 2001) Attorney's Docket No. 39780-1618 P2C27
For: PRO326 POLYPEPTIDES) Customer No. 35489

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TERMINAL DISCLAIMER UNDER 37 C.F.R. §1.321(c)

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Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

1. The owner, Genentech, Inc., having a principal place of business at 1 DNA Way, South San Francisco, California 94080, represents that it is the owner of the entire right, title and interest in the invention disclosed and claimed in the above-identified patent application, and is also the owner of the entire right, title and interest in the invention disclosed in co-pending U.S. Application No. 09/903,520.

Genentech, Inc. hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Application No. 09/903,520. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application, and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§154 to 156 and 173, as presently

shortened by any terminal disclaimer. In the event that it later is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole, or terminally disclaimed under 37 C.F.R. §1.321; has all claims canceled by a re-examination certificate; is reissued; or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

2. For submission on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

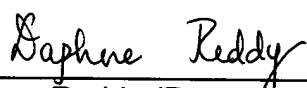
3. I hereby declare that all statements made herein of my own knowledge are true, that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statement may jeopardize the validity of the application or any patent issued thereon.

4. The undersigned is an attorney of record.

5. The Commissioner is authorized to charge any fees, including any fees for extension of time, or credit overpayment to Deposit Account No. 08-1641 (Attorney's Docket No. 39780-1618 P2C27).

Respectfully submitted,

Date: February 17, 2004


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